

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

NICOLAS AQUINO,  
Plaintiff,

v.

COUNTY OF MONTEREY SHERIFF'S  
DEPARTMENT, et al.,  
Defendants.

Case No. [5:14-cv-03387-EJD](#)

**ORDER DENYING MOTION FOR  
DISCOVERY SANCTIONS**

Re: Dkt. No. 184

Prior to trial, Defendants filed a motion for discovery sanctions because Plaintiff had failed to timely notify Defendants that his employment status had changed. Dkt. No. 184. The Court instructed the parties to attempt to resolve this matter without Court intervention and deferred ruling on the question of sanctions until after trial. *See* Dkt. No. 188. Now that trial has concluded, the Court revisits Defendants' motion.

In their motion, Defendants contend that Plaintiff failed to fulfill his obligation under Federal Rule Civil Procedure 26(e)(1)(A) to "supplement . . . [his] disclosure . . . in a timely manner." Dkt. No. 184. Defendants request that, pursuant to Federal Rule Civil Procedure 37,<sup>1</sup> the Court strike Plaintiff's pleadings relating to lost earnings or impose other appropriate sanctions. *Id.*

While a party's obligations under Rule 26 are not to be taken lightly, the Court finds that sanctions are unwarranted. Rule 37(c)(1) exempts a party from sanctions if its failure to provide

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<sup>1</sup> Defendants state in their motion that they request sanctions under Rule 37(b)(2)(A)(iii), but then cite caselaw which imposes sanctions under Rule 37(c)(1). Dkt. No. 184 at 4-5.

1 information was harmless. Such was the case here. In rendering its verdict, the jury determined  
2 that Plaintiff was entitled to \$0 in compensatory damages for past or future lost earnings. Dkt. No.  
3 271 at 5. The earlier disclosure of Plaintiff's changed employment status would not have affected  
4 this result. Defendants are also not entitled to sanctions under Rule 37(b)(2)(A)(iii), as there does  
5 not appear to be an "order to provide or permit discovery" which Plaintiff "failed to obey."  
6 Accordingly, the Court finds it inappropriate to take further action on this matter.

7 Based on the foregoing, Defendants' motion is DENIED.

8 **IT IS SO ORDERED.**

9 Dated:

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11 EDWARD J. DAVILA  
12 United States District Judge  
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